

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

PETER FRANCHOT,

Defendant.

No. 1:21-cv-00410-LKG

* * * * *

NOTICE OF SUPPLEMENTAL AUTHORITY

In the hearing scheduled for this afternoon, July 12, 2022, counsel may be referring to the following decisions that were not cited in briefing.

With respect to the Court’s third question (“Whether plaintiffs have satisfied the pre-requisite for bringing a facial First Amendment challenge to the DATA’s pass-through prohibition under *Greater Balt. Center for Pregnancy Concerns, Inc. v. Mayor and City Council Balt.*, 721 F.3d 264, 282 (4th Cir. 2013)), the following cases may be referenced:

United States v. Miselis, 972 F.3d 518 (4th Cir. 2020), *cert. denied*, 141 S. Ct. 2756 (2021), and *cert. denied sub nom. Daley v. United States*, 141 S. Ct. 2756 (2021)

White Coat Waste Project v. Greater Richmond Transit Co., 35 F.4th 179 (4th Cir. 2022) (reversing in part, affirming in part (citing *White Coat Waste Project v. Greater Richmond Transit Co.*, 463 F. Supp. 3d 661, 694 (E.D. Va. 2020), which was cited by plaintiffs, ECF 73 at 4 of 7)

With respect to the Court’s fourth question (“Should the Court conclude that the pass-through prohibition restricts commercial speech, whether the DATA’s pass-through prohibition satisfies intermediate scrutiny”), counsel may refer to the following case:

Int'l Harvester Co. v. Wisconsin Dep't of Tax'n, 322 U.S. 435, 441 (1944) (regarding a state's power to determine tax incidence)

A copy of each decision is submitted with this notice.

Respectfully submitted,

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